



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 541

IN THE MATTER OF HARLEY KEELER

DISPOSITION AGREEMENT

This Disposition Agreement (“Agreement”) is entered into between the State Ethics Commission (“Commission”) and Harley Keeler (“Keeler”) pursuant to §5 of the Commission’s Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On July 11, 1995, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Keeler. The Commission has concluded its inquiry and, on September 13, 1995, found reasonable cause to believe that Keeler violated G.L. c. 268A.

The Commission and Keeler now agree to the following findings of fact and conclusions of law:

1. At all relevant times, Keeler was employed as the fire chief for the town of Uxbridge. As such, Keeler was a municipal employee as that term is defined in G.L. c. 268A, §1(g).
2. In January 1995, the Uxbridge Fire Department posted a full-time firefighter position.
3. The full-time firefighter position pays an annual salary of approximately \$22,000.
4. Keeler selected two individuals to serve on the selection committee: the deputy chief and another fire department officer. Subsequently, Keeler decided to have only the deputy chief interview the candidates.
5. Five applications for the full-time firefighter position were taken out but only two were returned. One of the candidates was Keeler’s stepdaughter Melissa Blodgett (“Blodgett”).
6. The deputy interviewed the two candidates and recommended to Keeler that Blodgett receive the position.
7. Keeler, after receiving the deputy’s recommendation, appointed Blodgett to the full-time firefighter position.
8. Section 19 of G.L. c. 268A, except as permitted by paragraph (b) of that section, prohibits a municipal employee from participating as such an employee in a particular matter in which to his knowledge he or an immediate family member^{1/} has a financial interest. None of the exceptions contained in §19(b) apply in this case.^{2/}
9. The determination as to whom to hire for the full-time firefighter position was a particular matter.^{3/}
10. As set forth above, Keeler participated^{4/} as fire chief in that hiring determination first by selecting the interview committee and then by appointing his stepdaughter to the position.
11. Blodgett, as an applicant for the full-time firefighter position, had a financial interest in the appointment of that position. Keeler knew of his stepdaughter’s financial interest at the time he participated in the hiring process.
12. Accordingly, by participating in the full-time firefighter position hiring process, as set forth above, Keeler

participated in his official capacity in a particular matter in which he knew an immediate family member had a financial interest, thereby violating G.L. c. 268A, §19.^{5/}

13. Keeler cooperated with the Commission's investigation.

In view of the foregoing violations of G.L. c. 268A by Keeler, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Keeler:

- (1) that Keeler pay to the Commission the sum of one thousand dollars (\$1,000.00) as a civil penalty for violating G.L. c. 268A as stated above;
- (2) that Keeler will act in conformance with the requirements of G.L. c. 268A, §19 in the future; and
- (3) that Keeler waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: January 30, 1996

^{1/} "Immediate family," the employee and his spouse, and their parents, children, brothers and sisters. G.L. c. 268A, §1(e). Blodgette is an immediate family member to Keeler as Blodgette is his wife's child.

^{2/} Section §19(b)(1) provides that it shall not be a violation of §19, "if the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee."

^{3/} "Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

^{4/} "Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).

^{5/} On December 31, 1995, Blodgette resigned from the firefighter position. The position is to be re-posted.